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C O N F I D E N T I A L SECTION 01 OF 03 GUATEMALA 001902

SIPDIS

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TAGS: [SNAR](#) [PREL](#) [KDEM](#) [PGOV](#) [KJUS](#) [KCOR](#) [KCRM](#) [GT](#)

SUBJECT: STATUS OF GUATEMALAN COUNTER-NARCOTICS COOPERATION

REF: A. GUATEMALA 1679

1B. GUATEMALA 1693

Classified By: Ambassador John Hamilton for reason 1.5 (b) and (d).

11. (C) Summary: GOG cooperation in the war on drugs has had several concrete successes in the past six months, and there has been further progress since the June 30 Inter-Agency meeting in which the Ambassador participated. A quick run down on our benchmarks: cocaine seizures have increased fourfold; extraditions have resumed; more than \$19 million in drug profits have been seized; Guatemala's major trafficker is on the run; five tons of cocaine evidence held by the courts has been destroyed; an asset forfeiture law was passed by Congress, and the courts have accelerated the sale of seized assets; a counter-narcotics maritime agreement has been signed and passed to Congress for ratification; and regulations controlling precursor chemicals have been officially published. Not all benchmarks have been fully met, however. And the GOG is clearly not keen on investigating a (non-drug) corruption case that may involve President Portillo. Nonetheless, we believe a decision to fully recertify Guatemala is warranted. We recommend developing new benchmarks for evaluating the GOG's counter-narcotics cooperation for the next year. End summary.

12. (C) Three years of steadily declining cooperation by the GOG in the war on drugs came to an end in March when, as a result of our decertification, the GOG put together an inter-institutional team (including members of the executive, judiciary, legislature and Attorney General's Office) to provide concrete actions in response to our counter-narcotics concerns. The inter-agency process in Washington identified nine benchmarks that would be the measures by which "recertification" would be considered. The GOG has dedicated considerable energy and political capital to meeting each of these benchmarks over the past six months. Several of the benchmarks have been fully met; others have been substantially met. Reftels outlined the status of compliance with the benchmarks through the end of June. During the past four weeks there have been several further advances, especially in the areas of the bilateral counternarcotics maritime agreement, SAIA institutional development, police-prosecutor cooperation, asset forfeitures and collaborative efforts to make seizures.

13. (C) Other areas have not seen the same level of successes. The Attorney General's office is prosecuting a major scandal of the Social Security Institute (IGSS) and removed the ineffective money laundering prosecutor Lilly Chinchilla (at our request), but has just named her to head the anti-corruption prosecutor's office. While that office focuses on official corruption cases, not narcotics cases, the naming of Chinchilla to head that unit was a setback for anti-corruption efforts in Guatemala. The Attorney General's decision was widely viewed as aimed at protecting President Portillo from potential prosecution in a corruption scandal known locally as the Panama Case. Whether that case involves drug money laundering is not clear.

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PROGRESS SINCE THE JUNE 30 IAWG MEETING  
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BILATERAL COUNTER-NARCOTICS MARITIME AGREEMENT SIGNED AND  
AWAITING RATIFICATION  
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14. (U) On June 19, Foreign Minister Edgar Gutierrez and the Ambassador signed the bilateral counternarcotics maritime agreement. The agreement had its first of three required readings before Congress in early July, and was assigned to the International Affairs Committee for review. The agreement was approved by the committee on July 15 and returned to Congress, where it will be considered in the next extraordinary session. In committee it enjoyed the support of all the major parties, and we do not anticipate significant opposition to it when it is considered in extraordinary session.

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SAIA REGULATIONS AMENDED TO PROVIDE FOR PERIODIC POLYGRAPH  
AND URINALYSIS TESTING  
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15. (U) The GOG provided us with the final copy of the internal regulations for the anti-narcotics police (SAIA in Spanish). The regulations were signed by the Director of the National Police and placed into effect on June 25. The regulations only provided for polygraph and urinalysis testing to be conducted upon initial entry into the unit, and not at irregular intervals throughout an officer's career as we had recommended. The Ambassador raised this with the Minister of Government, and NAS Director raised with the director of the SAIA, and they amended the SAIA regulations to include periodic retesting. The target is for testing every six months, beginning in August. We will continue to monitor the implementation of this initiative to evaluate its overall effectiveness.

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POLICE-PROSECUTOR NARCOACTIVITY TASK FORCE FORMING  
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16. (U) Per ref A, on June 17 the Attorney General and the Minister of Government signed an agreement that commits the two institutions to form combined task forces in the areas of money laundering and narcoactivity. The agreement states that these task forces were being formed as a result of the success of the existing task force on anticorruption. We have received a copy of the internal regulation for the pre-selection and periodic retesting of personnel assigned to the unit. This screening will include local polygraph and urinalyses testing for involvement in corrupt activities and the use of illicit substances. It will have the first ever financial disclosure and periodic background investigation. Though still in its developmental stages, this initiative will be a model for other programs.

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LIQUIDATION OF SEIZED ASSETS  
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17. (U) The Judicial Branch has begun auctioning off seized aircraft. The Chief Justice of the Supreme Court and the chief of the judicial warehouse met with NAS Director to explain the process for the sale of seized assets. The legislation they are using is Decree 69-71, which was signed in 1971. It was further amplified last November with Agreement 81.002, which establishes a period of two months for interested parties to claim seized property. This agreement only affects those items in the warehouse that were seized before January 1, 1999. Currently there is a list of fourteen aircraft that are available for auction. The aircraft were seized as far back as 1983. The judicial warehouse is also auctioning off other items. It is estimated that approximately 10% of all of the seized property was derived from narcotrafficking activities.

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ITINERANT JUDGES TO EXPEDITE WARRANT PROCESS AND MAKE IT SECURE  
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18. (U) In an effort to expedite the issuance of search warrants and prevent the release of sensitive law enforcement information, the Supreme Court has agreed to name two judges to serve as itinerant judges in the nationwide service of warrants and arrests. The chief magistrate told us this week that he now has the two judges identified, but that he was awaiting the vehicles and assigned PNC personnel. The naming of these judges will greatly enhance the ability of the courts to move to any given location and conduct enforcement activities with a minimum of detractors or loss of information. Its will also increase the speed at which law enforcement activities could be conducted.

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SEIZURES RISING  
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19. (U) Between January 1 and July 24, 2003, the GOG seized 3,718 kilos of cocaine. Since March, JIATF South has reported 41 suspect air tracks. Although the Guatemalan military has not responded to every event, they have responded to every event they have been asked to by us. Given communication limitations, often information does not reach the Guatemalans with sufficient time to respond adequately. They have however, developed a response plan, which includes dedicating aircraft in the various parts of the country to respond with the SAIA and Public Ministry to just such events. Of those 41 reported events, the Guatemalans were able to respond to ten. Two of these resulted in the largest seizure this calendar year. Since the GOG improved its response mechanisms, suspect tracks have diminished over Guatemala. We are also seeing traffickers switching to nighttime flights; to overflights of Guatemala directly into Mexico; and to flights that include stops for random periods of time in neighboring countries and which start up too close to Guatemala to permit an opportune launch.

10. (U) Control of drug trafficking at the points of entry (i.e. airports, land border crossings and seaports) remains deficient, especially at the airport. In conjunction with DEA, NAS and TAT at post, the GOG has targeted major trafficker Otto Herrera, and has conducted important disruption operations against his organization. Herrera himself is on the run, after losing over \$14 million in drug proceeds seized by the GOG at one of his former safe houses.

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COMMENT:  
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11. (C) A comment on seizures: According to CNC data, Guatemala seized an estimated 5.6% of the cocaine moving through, over or around Guatemala in 2002. Seizures in 2003 at mid-year stood at 150% of the total for 2002, thus increasing the seizure rate by a significant but indeterminate amount (since we have no data on illicit narcotic flows for 2003). For purposes of comparison, CNC estimates the USG seizure rate of cocaine entering the US at only 12.2%. The two situations are not all together comparable, however, in that Guatemala lacks an end-game capability for overflights, whereas the U.S. does have an end-game capability. Our point is that the relatively low seizure rate here is not in and of itself a measure of political will or the lack thereof.

12.(C) Further comment: If Guatemala is recertified, it is critical that momentum be maintained by presenting the GOG with new benchmarks that would represent our standard for measuring continued cooperation for the next year. With a new government assuming office in January, 2004, it will be important to get movement on the new benchmarks started by the current government so that time is not lost in the transition. Post welcomes inter-agency views on priorities for benchmarks for the coming year.

HAMILTON